

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION**

JACOB BANSCHBACH,

Plaintiff,

vs.

BRUCE MILLER, et al.,

Defendants.

**CV-19-41-H-BMM-JTJ**

**ORDER**

Plaintiff Jacob Banschbach (“Plaintiff”) stands as a prisoner proceeding in forma pauperis and without counsel. Defendants provided the Court with notice that in a companion case, they unsuccessfully have attempted to reach Plaintiff at an address he provided. (Doc. 31 at 2). The Court attempted to mail documents to Plaintiff at two separate addresses and both items were returned as “undeliverable.” (Docs. 33, 34).

The Court specifically advised Plaintiff that his failure to respond would result in a recommendation that this matter be dismissed for failure to prosecute. (Doc. 32 at 2); *see also* Fed. R. Civ. P. 41(b); *Malone v. U.S. Postal Serv.*, 833 F.2d 128 (9th Cir. 1987). Plaintiff has failed to provide the Court with an updated address despite being directed to do so. (Doc. 32). United States Magistrate Judge

John Johnston issued Findings and Recommendations, determining that the Court should dismiss this matter for failure to prosecute. (Doc. 35 at 4–5).

No party has filed an objection to Judge Johnston’s Findings and Recommendations. The Court has reviewed the Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court finds no error in Judge Johnston’s Findings and Recommendations and adopts them in full.

### **ORDER**

Accordingly, **IT IS ORDERED:**

1. This matter is **DISMISSED** pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.
2. The Clerk of Court is directed to terminate all pending motions, close this matter, and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.
3. The Clerk of Court is directed to have the docket reflect that the Court certifies pursuant to Fed. R. App. P. 24(a)(3)(A) that any appeal of this decision would not be taken in good faith.

Dated this 23rd day of February, 2021.



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Brian Morris, Chief District Judge  
United States District Court